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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

CASE NO. 3:17-cv-00939-WHA

13 Plaintiff,

**PLAINTIFF WAYMO LLC'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PORTIONS OF ITS
OFFER OF PROOF REGARDING
DEFENDANTS' TRADE SECRET
MISAPPROPRIATION**

14 vs.

15 UBER TECHNOLOGIES, INC.;
OTTOMOTTO LLC; OTTO TRUCKING
LLC,

16 Defendants.

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1 Pursuant to Civil L.R. 7-11 and 79-5, Plaintiff Waymo LLC (“Waymo”) respectfully
 2 requests to file under seal portions of Waymo’s Offer of Proof Regarding Defendants’ Trade
 3 Secret Misappropriation (“Waymo’s Offer of Proof”).

4 **I. LEGAL STANDARD**

5 Civil Local Rule 79-5 requires that a party seeking sealing “establish[] that the document, or
 6 portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under
 7 the law” (*i.e.*, is “sealable”). Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored
 8 to seek sealing only of sealable material.” *Id.* In the context of non-dispositive motions, materials
 9 may be sealed so long as the party seeking sealing makes a “particularized showing” under the “good
 10 cause” standard of Federal Rule of Civil Procedure 26(c). *Kamakana v. City & Cnty. of Honolulu*,
 11 447 F.3d 1172, 1180 (9th Cir. 2006) (quoting *Foltz v. State Farm Mutual Auto Insurance Co.*, 331
 12 F.3d 1122, 1135, 1138 (9th Cir. 2003)).

13 **II. THE COURT SHOULD SEAL WAYMO’S CONFIDENTIAL INFORMATION**

14 The Court should seal the portions of Waymo’s Offer of Proof to be marked in a revised sealed
 15 version to be filed tomorrow. Given the sensitivity of this material, Waymo is currently filing the
 16 entire document under seal but intends to provide a redacted version tomorrow. Waymo seeks to file
 17 this information under seal because it discloses Waymo’s trade secrets. *See Declaration of Felipe*
 18 *Corredor (“Corredor Decl.”) ¶¶ 3-5.* Waymo’s Offer of Proof also contains information Defendants
 19 and/or third party Velodyne have designated confidential and/or highly confidential. *Id.* ¶ 6. Courts
 20 have determined that trade secret information merits sealing. *Music Grp. Macao Commercial*
 21 *Offshore Ltd. v. Foote*, No. 14-cv-03078, 2015 WL 3993147, at *1 (N.D. Cal. June 30, 2015) (quoting
 22 *Kamakana*, 447 F.3d at 1179); *see also Brocade Commc’ns Sys., Inc. v. A10 Networks, Inc.*, No. C 10-
 23 3428, 2013 WL 211115, at *1, *3 (N.D. Cal. Jan. 17, 2013) (granting request to seal document that
 24 “consists entirely of descriptions of Brocade’s trade secrets”). Confidential business information that,
 25 if released, may “harm a litigant’s competitive standing” also merits sealing. *See Nixon v. Warner*
 26 *Commc’ns, Inc.*, 435 U.S. 589, 598-99 (1978). Waymo seeks to seal confidential business information
 27 and trade secret information that fit squarely within these categories. Corredor Decl. ¶¶ 3-5. Waymo

1 maintains this information as a trade secret (*see* Dkt. 25-31) and ensures the information remains
 2 secret with strict secrecy and security protocols (*see* Dkt. 25-47; Dkt. 25-49.). *See* Corredor Decl. ¶ 4.
 3 Waymo has narrowly tailored its requests to only information meriting sealing. *Id.* ¶ 5. In fact, both
 4 *Music Group* and *Brocade* found the confidential information at issue in those cases met the
 5 heightened “compelling reasons” standard for sealing. *Music Grp.*, 2015 WL 3993147, at *1;
 6 *Brocade*, 2013 WL 211115, at *1, *3. The information that Waymo seeks to seal, therefore, also
 7 meets this heightened standard. The disclosure of Waymo’s trade secret and confidential business
 8 information would harm Waymo. Corredor Decl. ¶ 4. Moreover, the scope of information that
 9 Waymo is seeking to seal is consistent with other administrative motions to seal that have already
 10 been granted by the Court in this case. (*See, e.g.*, Dkt. 416, 414, 406, 393, 392.) Thus, the Court
 11 should grant Waymo’s administrative motion to seal.

12 **III. CONCLUSION**

13 In compliance with Civil Local Rule 79-5(d), redacted and unredacted versions of the
 14 above listed documents accompany this Administrative Motion. For the foregoing reasons,
 15 Waymo respectfully requests that the Court grant Waymo’s administrative motion to file under
 16 seal.

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 18 DATED: August 24, 2017

QUINN EMANUEL URQUHART & SULLIVAN,
 LLP

20 By /s/ Charles Verhoeven
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 22 Attorneys for WAYMO LLC